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7 INVENTERGY GLOBAL, INC.

Additional Counsel Listed on Signature Page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

13 | INTEL CORPORATION and APPLE INC.,

14 || Plaintiffs,

15 v.

16 FORTRESS INVESTMENT GROUP LLC,
17 FORTRESS CREDIT CO. LLC, UNILOC
18 2017 LLC, UNILOC USA, INC., UNILOC
19 LUXEMBOURG S.A.R.L., VLSI
TECHNOLOGY LLC, INVIT SPE LLC,
INVENTERGY GLOBAL, INC., and IXI IP,
LLC.

20 | Defendants.

Case No. 3:19-cv-07651-EMC

**DEFENDANTS INVT SPE LLC AND
INVENTERGY GLOBAL, INC.'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL DOCUMENTS RELATED
TO THEIR SUPPLEMENTAL BRIEF IN
SUPPORT OF DEFENDANTS' JOINT
MOTION TO DISMISS AND TO STRIKE
PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Hon. Edward M. Chen

INVT AND INVENTERGY SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION TO DISMISS AND STRIKE

Pursuant to Civil L.R. 7-11 and 79-5, Defendants INVT SPE LLC (“INVT”) and Inventergy Global, Inc. (“Inventergy”) respectfully requests to file under seal portions of Defendants INVT SPE LLC and Inventergy Global, Inc.’s Supplemental Brief in Support of Defendants Joint Motion to Dismiss and to Strike Plaintiffs’ Second Amended Complaint (“Supplemental Brief”) and certain exhibits to the Declaration of Christopher A. Seidl (“Seidl Decl.”). Specifically, INVT and Inventergy request an order granting leave to file under seal the documents as listed and identified below:

Document	Portions to Be Filed Under Seal
Supplemental Brief	Page 2, lines 12-13, 14-15, 24-page 3, lines 1, 2-4, 6-7, 7-9, 10-14, figure at lines 15-20, lines 21-22, figure at lines 23-27, page 4, lines 1-3
Exhibit 24 to the Seidl Decl.	In its entirety
Exhibit 25 to the Seidl Decl.	In its entirety

In support of this request, INVT and Inventergy submit this motion, the Declaration of Christopher A. Seidl, and a proposed order, which together establish compelling reason to protect the confidentiality of the information contained in the documents INVT and Inventergy wish to seal.

In filing this motion, INVT and Inventergy have reviewed and complied with the Civil Local Rule 79-5.

I. Legal Standard

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* Additionally, a party seeking to seal a document filed with the court generally must rebut the “strong presumption in favor of access” that applies to all documents other than grand jury transcripts and pre-indictment warrant materials. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citation omitted).

II. Argument

The Court should seal the documents identified by INVT and Inventergy as described in the

1 table above. The Northern District of California requires a showing of “compelling reasons” for
 2 sealing motions and attachments that are dispositive or “more than tangentially related to the merits
 3 of a case.” *Fitzhenry-Russell v. Keurig Dr. Pepper Inc.*, 345 F. Supp. 3d 1111, 1120 (N.D. Cal.
 4 2018). Under Ninth Circuit law, the protection of trade secret information is a sufficiently
 5 compelling reason to justify sealing. In this context, the Ninth Circuit has adopted a broad definition
 6 of trade secrets: “any formula, pattern, device or compilation of information which is used in one’s
 7 business, and which gives him an opportunity to obtain an advantage over competitors who do not
 8 know or use it.” *Lathrop v. Uber Techs., Inc.*, Case No. 14-cv-05678-JST, 2016 U.S. Dist. LEXIS
 9 190061, at *4 (N.D. Cal. May 3, 2016) (quoting *In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th
 10 Cir. 2008)).

11 INVT and Inventergy seek to seal information that fits squarely within this definition, and
 12 has “narrowly tailored” its request to only seal the most critical information, thus preserving the
 13 public’s right of access to non-sealable material. Specifically, INVT and Inventergy are seeking to
 14 seal extremely sensitive information relating to INVT and Inventergy’s financial information, and
 15 business strategies and negotiations, which are all protectable as trade secrets.

16 The Northern District of California has previously found that these types of documents,
 17 many of which contain INVT and Inventergy’s information subject to trade secrets, meet the
 18 “compelling reasons” standard for sealing. *See, e.g., AAA of N. Cal. Nev. & Utah v. GM LLC*, Case
 19 No. 17-cv-03874-LHK, 2019 U.S. Dist. LEXIS 42978, at *6 (N.D. Cal. Mar. 14, 2019) (finding
 20 compelling reasons to seal information relating to contracts with third parties, financial information
 21 and projected profitability, and business plans and strategies, among other categories of
 22 information); *United Tactical Sys., LLC v. Real Action Paintball, Inc.*, Case No. 14-cv-04050-MEJ,
 23 2017 U.S. Dist. LEXIS 178658, at *15-16, *18, *22-23 (N.D. Cal. Oct. 27, 2017) (granting motions
 24 to seal to the extent they dealt with sensitive financial information such as sales, profits, costs, and
 25 margins); *TVIM, LLC v. McAfee, Inc.*, Case No. 13-cv-04545-HSG, 2015 U.S. Dist. LEXIS
 26 102121, at *4-5 (N.D. Cal. Aug. 4, 2015) (granting motion to seal “highly sensitive, product-specific
 27 financial information, including . . . profit margin, average sales price, and unit sales information”
 28 and explaining that such information constitutes trade secrets under Ninth Circuit law); *Opperman*

1 *v. Path, Inc.*, Case No. 13-cv-00453-JST, 2017 U.S. Dist. LEXIS 39060, at *19 (N.D. Cal. Mar. 9,
 2 2017) (granting a motion to seal a document that “contains competitively sensitive financial
 3 information regarding Apple’s advertising spending and revenue associated with particular apps”);
 4 *Johnson v. Quantum Learning Network, Inc.*, Case No. 15-cv-05013-LHK, 2016 U.S. Dist. LEXIS
 5 111723, at *5 (N.D. Cal. Aug. 22, 2016) (granting motion to seal financial information of third
 6 parties “as well as sensitive financial information of Defendant that, if made public, could harm
 7 Defendant’s business interests”).

8 This Court has also previously sealed portions of the Plaintiffs’ prior complaints that
 9 reference the information at issue in this motion. *See, e.g.*, Dkt. 238.

10 The requested relief sought is necessary and narrowly tailored to protect the confidentiality
 11 of the content of the Supplemental Brief and certain exhibits to the Seidl Decl. If INVT and
 12 Inventergy’s confidential information became public, it would harm INVT and Inventergy by
 13 revealing their trade secrets, confidential internal business strategies, and confidential financial
 14 information. Allowing the public to view this information would cause competitive and financial
 15 harm to INVT and Inventergy. Thus, the Court should grant INVT and Inventergy’s Administrative
 16 Motion to Seal.

17 **III. Conclusion**

18 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
 19 above listed documents accompany this Administrative Motion. For the foregoing reasons, INVT
 20 and Inventergy respectfully request that the Court grant this motion.

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1 Dated: April 26, 2021

Respectfully submitted,

2 ROBINS KAPLAN LLP

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